



## DEPARTMENT OF PUBLIC SAFETY POLICIES & PROCEDURES



POLICY NUMBER

OPR:17

EFFECTIVE  
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ISSUED ON:  
09/17/1997

REVISION NO:

6

SUBJECT: EVIDENCE/PROPERTY HANDLING

### 1.0 PURPOSE

The purpose of this policy is to establish a process for the preservation and disposition of evidence or property taken into custody by the Department of Public Safety (DPS).

### 2.0 POLICY

It is the policy of the DPS to preserve evidence and property in such a manner as to ensure its actual and evidentiary value. It is also departmental policy to dispose of evidence and property promptly and lawfully when such items are no longer required for departmental purposes. No DPS employee shall take, receive or convert to his/her use, or anyone else's, any property or evidence at any time, whether or not it is needed for any purpose or even if it is scheduled to be destroyed.

### 3.0 APPLICABILITY

This policy is applicable to all employees of the Department of Public Safety who are involved in the seizing and storing of evidence or property taken into custody by the Department of Public Safety. The DPS Forensic Laboratories shall follow their own internal policies for evidence storage and processing.

### 4.0 REFERENCES

- A. CALEA Chapter 83 – Collection and Preservation of Evidence
- B. CALEA Chapter 84 - Property and Evidence Control
- C. Chapter 29 – NMSA - 1978, Peace Officers in General

### 5.0 DEFINITIONS

- A. **Abandoned Property** – Items that were found or are being held for safekeeping which are no longer needed for court proceedings and that remain unclaimed pursuant to Section 29-1-14, NMSA 1978.
- B. **Audit** – A significant sampling of items of evidence and/or property in the department's possession.
- C. **Department or Departmental** – Unless otherwise specified, all reference in this policy to "department" will apply only to the Department of Public Safety.
- D. **DPS** – The Department of Public Safety
- E. **Evidence** – Instrumentalities of a crime, fruits of a crime, and contraband constitute evidentiary items. Such items may be obtained through investigative activities, such as arrest, service of search warrants or submission by third parties. Evidence may be held

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for use in investigations, criminal court proceedings or civil court proceedings to which the department is a party.

- F. **Evidence Custodian** – Any person designated by the Chief as responsible for the secure storage of evidence or property at a DPS storage facility. District evidence custodians may appoint alternate custodians.
- G. **Inspection** – A documented examination of an evidence facility to determine adherence to procedures used for the control of evidence/property. The inspection is conducted to determine that the storage facility is being maintained in a clean and orderly fashion, the integrity of evidence/property is being maintained, evidence/property is being protected from damage and deterioration, and evidence/property no longer having evidentiary value is being properly disposed of.
- H. **Inventory** – A complete documented accounting of evidence and property in the department's possession in order to establish that all items are properly accounted for and records are correct relating to those items.
- I. **Property** – Non-evidentiary items in DPS custody were found or being held for safekeeping. These items may immediately be released to the owner at the owner's request.
- J. **Storage Facility** – Any facility used for secure storage of evidence or property which is capable of excluding persons other than evidence custodians.

## 6.0 PROCEDURE

### A. Guidelines

1. All property and evidence obtained by employees will be packaged and/or marked to maintain its value as evidence or its actual property value. Such evidence or property will be documented on **SP-205 Evidence/Property Control forms**.

Clarification added.

**The SP-205 shall not be duplicated into a two-page document; it must remain a single page so that the chain of custody signatures are not separated from the listing of items.**

Evidence/Property shall be secured before the end of the employee's shift except under the following exceptional circumstances; inclement weather, excessive distance to travel at the end of shift, and/or supervisor unavailability. When this occurs, an officer shall obtain supervisor authorization to place the evidence/property overnight in a secure location. The officer shall transport the item(s) of evidence/property immediately at the beginning of his/her shift the following day. In the event the officer is going on days off, he/she shall arrange for the evidence/property to be transported to the evidence storage facility prior to going on days off. Any deviation from the normal evidence procedure shall be documented on the officer's daily recap.

IB agents shall also obtain supervisory authority for exceptions to the requirement of storage of evidence/property prior to the end of their shifts. These circumstances include but are not limited to; packaging and storage of an excessive amount of evidence/property that would be unreasonably burdensome to the agent, and/or there is an immediate investigative need relating to the evidence/property. The evidence/property shall be maintained in a secure location agreed upon by the agent and his/her supervisor. The evidence/property shall be secured in the appropriate evidence facility once the immediate investigative need has been fulfilled. Any deviation from the normal evidence procedure shall be documented on the agent's daily recap.

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Supervisory authorization for exceptional circumstances shall serve the purpose of logging the in-custody property into agency records temporarily until the evidence/property can be logged into the appropriate facility.

2. Evidence custodians shall ensure that evidence/property seized/obtained is submitted promptly, properly packaged, properly labeled, and logged into the permanent evidence log. Evidence must also be disposed of promptly, in accordance with law.
3. All evidence obtained in a particular case will be recorded on an **SP-205** Evidence/Property Control form. The original form will remain with the evidence until final disposition is obtained.
4. At storage facilities, except the headquarters storage facility, all evidence/property will be inspected and each item permanently logged into storage in a bound book by the evidence custodian or his/her alternate.
5. Each transfer of evidence/property will be documented on the chain of custody section of the original **SP-205** Evidence/Property Control form.
6. Evidence/property no longer needed by the department will be returned to the owner, destroyed, or lawfully disposed of as soon as practical or within six (6) months after legal requirements have been satisfied.
7. An Offense/Incident Report shall be completed for **any** seizure of evidence or property or any item taken into department custody. The case or CAD number shall be indicated on the **SP-205** Evidence/Property Control form for tracking purposes.
8. Evidence and property may only be transported by authorized department personnel, or evidence custodians, or by registered mail.
9. Evidence and property may only be transported for official departmental business.
10. All property acquired for the DPS, through the civil process or asset forfeiture proceedings shall be accounted for in agency records and disposed of pursuant to state law.

### **B. Packaging**

1. General Guidelines
  - a. All evidence will be packaged in such a manner as to maintain its value as evidence and/or (when practical) its property value.
  - b. All property or evidence will have the evidence number and item number permanently written on each package or securely attached by a tag or adhesive sticker. If a case number is used as an evidence number then it must be permanently marked on the outside of the package.
  - c. The original **SP-205** Evidence/Property Control form(s) shall be attached to the evidence/property or the packaging (except for the headquarters storage facility). When evidence or property pertaining to a single case is split; for any reason other than submission to the DPS Forensic Laboratory for analysis a *two-sided copy* of the original SP-205 Evidence/Property Control form shall be made, attached to the evidence/property being moved, and the copy shall be signed and treated as a second original.

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When evidence is being submitted to the DPS Forensic Laboratory, the officer/agent shall:

1. Complete the DPS Forensic Laboratory Evidence Receipt. This form becomes the second original chain of custody for the item(s) of evidence while in the lab.
2. A notation indicating the date/time and item number shall be made on the original **SP-205** Evidence/Property Control form indicating the change in custody.
3. When the evidence is returned from the DPS Forensic Laboratory, a notation indicating the date/time and item number shall be made on the original **SP-205** Evidence/Property Control form indicating the change in custody. The SP-205 Evidence/Property Control form shall again become the original chain of custody.
4. The DPS Forensic Laboratory Evidence Receipt should be kept with the original **SP-205** Evidence/Property Control form for chain of custody purposes.
  - d. In the event evidence is received from another law enforcement agency, employees must attach that agency's Evidence/Property Control form, or a receipt bearing an original signature of the person who relinquished the item, to this department's **SP-205** Evidence/Property Control form. Original signatures must appear in the chain of custody section of the DPS form and the other agency's form, from both the person receiving and by the person relinquishing the items.
  - e. In those instances when evidence is received from non-law enforcement agencies; i.e. Office of Medical Investigator, the evidence shall be inventoried and packaged pursuant to department policy, including the completion of an itemized **SP-205** form.
  - f. Property and evidence shall not be packaged together.
  - g. Wet evidence shall not be placed in sealed plastic containers.
  - h. Video or audio recordings used in wiretap investigations shall be kept in evidence for ten (10) years, or as ordered by the appropriate court.
2. Specific Guidelines
  - a. Hazardous Materials
    1. Hazardous chemicals of unknown manufacture or origin, or those with manufacturer's containers which have been damaged or opened, shall not be stored at DPS facilities.
    2. Highly flammable and reactive chemicals or USDOT class A and B explosives may not be stored at DPS facilities.
    3. USDOT class A and B explosives must be stored at departmental explosive magazine facilities. USDOT class C explosives and ammunition may be stored at DPS evidence facilities at the discretion of the evidence custodian.

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4. Biological hazards such as bodily fluids shall be clearly labeled BIOHAZARD in red or orange prior to submission to an evidence custodian as per policy *OPR:12 Exposure Control Plan*.
  5. An exception to this requirement is the storage of representative samples of liquids/chemicals obtained from clandestine methamphetamine laboratory investigations. These items must be clearly labeled as such.
- b. Firearms
1. All firearms should be unloaded before transportation or storage. If it is necessary to transport or store a loaded weapon to preserve its condition for forensic examination, the weapon will be clearly labeled "LOADED WEAPON". No firearms shall be stored in a loaded condition after forensic examination.
  2. Firearms should be stored with a tag bearing the evidence number and item number clearly visible on the item/packaging. Actions on firearms should be rendered inoperable by opening the actions and running a plastic wire through it, thus preventing the action from closing. In those instances when firearms are packaged in cardboard boxes, the evidence and case numbers shall be clearly marked on the exterior of the packaging for ease of identifying the item.
  3. Firearms may only be released from evidence/property storage according to law. Firearms may only be shipped to law enforcement agencies or federal licensed firearms dealers.
- c. Monies
1. Money shall be listed by denomination and number of bills or coins unless an individual bill or coin is of individual forensic or evidentiary value. When practical, monies should be packaged in heat-sealed plastic bags.
  2. A copy of the **SP-205** Evidence/Property Control form should be sealed inside the heat-sealed bag with the evidence number, the dollar amount, and suspect's name visible through the bag, if practical.
  3. A witnessed count of seized money will be completed at every step during a transfer, for accuracy purposes. The chain of custody form shall indicate the change of custody.
  4. Money subject to forfeiture shall be handled as described above. However, once the count has been made, the seizing agent shall immediately, or as soon as practical, deliver the money to the appropriate district court for storage. The agent shall indicate in an Offense/Incident Report the information concerning the change of custody as well as indicating said change on the **SP-205** Evidence/Property Control form.
  5. The exception to the above-listed requirement will be when money is being submitted for forensic examination.

Money submitted for forensic examination shall be sealed in a plastic container and the chain of custody shall indicate "No Count Was Completed Due to Forensic Examination."

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### d. Vehicles

1. Vehicles to be processed for any type of evidence should be stored indoors (where practical).
  - a. If stored in a commercial garage, the vehicle to be processed shall be in a space inaccessible to anyone, except the officer/agent seizing the vehicle, or an officer or agent must remain with the vehicle until evidence processing begins.
  - b. Short-term storage of the vehicle in a department-owned garage is also a consideration. Integrity of the evidence shall be maintained in a manner consistent with training, such as the use of evidence tape to secure the vehicle until it can be processed. Evidence tape may also be used on exterior doors to the garage in an effort to demonstrate the integrity of the security over the vehicle. In the event a department facility is to be used, processing should be completed as quickly as practical to ensure continued departmental operation.
2. Seized vehicles, which are not being processed for evidence, may be stored outdoors at the headquarters vehicle storage area, fenced district or sub-district offices, or any departmental parking/storage facility which excludes all personnel other than evidence custodians. Seized vehicles may also be stored temporarily (less than seven (7) days) at a commercial storage lot, but should be moved as soon as possible to a departmental facility.
3. An original Vehicle Towing Authorization/Inventory form shall be attached to the **SP-205** Evidence/Property Control form for any seized vehicle, if applicable.
4. Personal property in seized vehicles shall be returned to the owner by the officer/agent who seized the vehicle. In the event the owner or a designee is not present, the property shall be secured in accordance with the property section of this policy. Should there be an overwhelming amount of property in the vehicle, arrangements shall be made to transport the vehicle and property to the headquarters' storage area as soon as practical. Every effort should be made to return the property to the owner or a designee so as not to transport the vehicle to headquarters for storage. In the event the seizing officer/agent is in the process of making arrangements for the return of the property, the property can be stored temporarily in the district evidence vaults.

### e. Photographs, Videos, and Audio Recordings

1. Photographs, exposed film, negatives of crime scenes/traffic crashes, video and audio recordings shall be placed into evidence when the items may become potential evidence. These items shall be packaged according to the general guidelines mentioned above.
2. The narrative section of the incident or crash report should reflect the number of photographs taken.
3. When the case is adjudicated both criminally and civilly, negatives and photographs may be destroyed pursuant to a valid destruction order.
- f. Digital image/audio files captured for evidentiary purposes, that are initially captured on a temporary storage medium, such as internal camera/audio recorder memory or flash memory cards including, but not limited to: Smart Media Cards, Multi Media Cards, Compact Flash Cards, XD Cards, Sony Sticks,

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etc., shall be transferred to a write once read many (WORM) CD or DVD for storage/archival purposes as soon as practical. The permanent storage media shall be labeled and stored in the same manner as film and negatives. Digital media is sensitive to temperature, light and other environmental conditions. Refer to DPS Policy *OPR:48 Digital Cameras*, for additional information on safeguarding digital files for evidentiary purposes.

### g. Drugs

- Clarification added.** 
1. Drugs shall be packaged in clear plastic bags with the original **SP-205** Evidence/Property Control form attached. Any sharp items shall have secondary packaging to avoid tears in the bag or accidental sticks. All sharps shall be labeled "BIOHAZARD" in red. The packaging shall be clearly marked with the evidence number, the type and quantity of drug, and suspect's name.
  2. Marijuana plant material which has not been dried, shall be packaged in such a way as to discourage mold; e.g. cardboard boxes, paper bags, etc. which allow the material to dry.
  3. Large quantities of drugs shall be transported to the headquarters vault within three working days. Any exceptions to this requirement must be approved by a supervisor and clearly documented on the seizing officer/agent's daily recap and in the offense incident report.
  4. On large seizures, a representative sample shall be submitted to the forensic laboratory for analysis. The procedures outlined above, for submission of evidence to the DPS Forensic Laboratory, shall be adhered to. The representative sample shall be stored with the original seizure when it is returned from analysis.
  5. Liquids shall be stored in such a manner as to maintain their evidentiary value while considering the potential for container breakage and/or contamination. The substance shall be clearly marked on the exterior of the outer packaging. In the event the substance is hazardous, the substance shall be stored pursuant to the hazardous materials section of this policy.
  6. Special health considerations shall be given to processing, packaging, and storing unknown controlled substances. If the substance is unknown, the exterior packaging shall clearly reflect this information as well as an indication made on the **SP-205** Evidence/Property Control form.

### h. Blood

1. Blood tests (samples for analysis of alcohol or controlled substance content) should be collected in a standardized kit and retained temporarily by the officer who witnessed the collection or who made the arrest. The collection kit should be mailed to the Scientific Laboratory Division via first-class mail as soon as is practical after it is obtained. If a sample cannot be mailed within thirty-six (36) hours of collection, it should be logged into evidence on a **SP-205** Evidence/Property Control form, turned over to an evidence custodian, and then refrigerated until mailed. If the blood is believed to be HIV or AIDS infected, clearly label the packaging "AIDS" or "HIV CONTAMINATED" in red, in accordance with department policy *OPR:12 Exposure Control Plan*.
2. Blood, body fluids, and human tissue which are evidence or are on any evidence item should be air-dried, then packaged in a paper bag which must be sealed with tape. Any evidence packaging containing blood, body fluids or human tissue shall be labeled "BIOHAZARD" in red. If the blood, body fluids

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or human tissue are known to be HIV or AIDS infected, clearly label the packaging "AIDS" or "HIV CONTAMINATED" in red, in accordance with department policy *OPR:12 Exposure Control Plan*.

3. Needles, broken glass, and other sharp objects contaminated with blood or other body fluids shall be packaged so that the packaging cannot be punctured to ensure that persons handling the evidence package will not be injured by the items. Such items shall be labeled as in Paragraph 2 above.
  4. All department employees coming into contact with evidence contaminated by blood or body fluids or tissues shall use "Universal Precautions" to prevent contamination by bloodborne pathogens.
- i. DNA
1. General storage guidelines for DNA are as follows:
    - a. Dried DNA samples, such as dried blood may be kept at room temperatures for an extended period of time without significant degradation to the DNA.
    - b. Collected samples that are moist (e.g. buccal swabs, swabs of dried blood, stained clothing, etc.) should be air dried before packaging. Once these samples are air dried they can be stored at room temperature for an extended period of time without significant degradation to the DNA.
    - c. DNA evidence that consists of blood, body fluids, and/or human tissue should be handled and packaged as explained above in Section H (Blood).
  2. Buccal swab(s) shall be air dried before being packaged. Once the swab has been dried it should be placed into a glassine envelope, if available, before being placed inside a paper envelope.
  3. Materials that are stained with blood, semen, urine, or other bodily fluids should be air dried before being placed into a paper bag, envelope, or box.
  4. Hair samples collected for DNA should be placed into a glassine envelope, if available, before being placed inside a paper envelope.
  5. For additional information regarding packaging of DNA evidence contact the DPS Forensic Laboratory or refer to *OPR:40 Crime Scenes* policy and the *Crime Scene Processing Handbook*.
- j. Digital Evidence
1. In general, digital evidence (including computers), when possible, shall be stored in an area to prevent damage to them or any components. Magnetic disks (e.g. floppies) and magnetic tapes should be stored in a non-metal cabinet or container to prevent damage.
  2. Refer to *OPR:40 Crime Scene Processing Guidebook* for specifics regarding other types of digital evidence.

## C. Procedures for Submitting Evidence/Property to Headquarters Facility

1. An appointment shall be made with the Headquarters Evidence Custodian or designee by phone or email before taking evidence to the headquarters facility.

2. All evidence transferred to the headquarter facility must have a case number or incident number which corresponds to a NMIBRS report.
3. Money, drugs, firearms, and property are stored separately in the headquarters facility and will need to be checked into the vault in separate packages.
4. The original chain of custody form will be kept at the headquarters facility with the evidence until the evidence is transferred out of the facility or destroyed. A copy of the original **SP-205** Evidence/Property Control form will be given to the officer/agent.

### D. Procedure for Submitting Evidence to Forensic Laboratory

1. The primary investigating officer or case agent has ultimate responsibility for submitting any evidence requiring forensic examination to the appropriate forensic laboratory.
2. Prior to submitting evidence to either of the DPS forensic laboratories, officers/agents shall ensure the item(s) of evidence being submitted are properly packaged in accordance with this policy.
3. The DPS Forensic Laboratory Evidence Receipt shall be completed for all items of evidence being submitted for forensic analysis.
4. If it is necessary to submit a loaded weapon to a DPS Forensic Laboratory to preserve its condition for forensic examination, the weapon will be clearly labeled "LOADED WEAPON". The submitting officer/agent shall inform Forensic Laboratory personnel of the fact the weapon is LOADED.

### E. Evidence for Training Purposes

1. Training Aids
  - a. Department personnel, such as Canine Enforcement Unit handlers, may be issued controlled substances as training aids. All training aids (controlled substances) shall be procured through the DPS HQ evidence vault. All training aids must be analyzed by the DPS Forensic Laboratory prior to distribution to department personnel. An **SP-205** Evidence/Property Control Form shall be maintained.
  - b. Prior to issuance of training aids, the aids shall be weighed and documented.
  - c. Upon return of the training aids, they shall be re-weighed. Some training aids may have normal weight and mass loss.
  - d. All training aids shall be separated and stored in secured locations.
  - e. Criminal Enforcement Unit handlers shall store their assigned controlled substance training aids in secured areas. Training aides stored in the Criminal Enforcement Unit handler's vehicle will be placed inside a secure container. Once training aids are issued, handlers are permitted to break them down into various weights and packaging material. Seized narcotics shall be stored separately to avoid cross-contamination. All other personnel using controlled substances as training aids shall store the substances in accordance with requirements set forth in this policy for storage of controlled substances (drugs).

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- f. Annual Inspections - A CEU supervisor shall conduct an annual inspection and inventory of all controlled substances training aides. This inspection/inventory shall be documented on an Intra Departmental Correspondence. The correspondence shall be forwarded to the Special Operations and Standards Bureau commanders. The correspondence shall include, but not be limited to the following:
  1. Date(s) of inventory/inspection.
  2. Names of personnel conducting inventory/inspection.
  3. The status/type of security container being used to store the training aids.
  4. The weight of the training aid(s) at the time of the inventory.
  5. Any discrepancies found and any corrective action taken.
- g. Training aids shall be replaced periodically as needed, but not later than once a year, when practical.
- h. In the event that an employee misplaces or destroys a controlled substance training aid, he/she shall immediately notify their immediate supervisor. Proper documentation shall immediately be submitted through the appropriate chain of command to the respective bureau commander and the Evidence Unit.
- i. Any explosive training aids shall be secured in authorized explosive magazines (containers) when not in use.

### **F. Storage Facilities**

1. The headquarters storage facility is the most secure and should be used to store evidence/property with a very high value as determined by each evidence custodian.
2. District, sub-district, and off-site evidence storage facilities have a lower level of security. Most evidence may be stored in a district facility with the approval of the appropriate evidence custodian.
3. When the evidence custodian is unavailable officers/agents shall use the drop box/lockers to deposit evidence/property which will fit. It is the responsibility of the officer/agent depositing the evidence/property, to contact an evidence custodian or alternate within one (1) working day of placing an item in the drop box/locker. It is the evidence custodian's responsibility to ensure that the drop box/locker is checked each day, when the custodian or alternate are working at that location.
4. Storage facilities will be outfitted with a secondary level of security for storing items of exceptional valuable or sensitive items of evidence/property, e.g., firearms, controlled substances, and currency. These items shall be stored together by category. Example: firearms stored with firearms, controlled substances stored with controlled substances, etc. These items shall be stored separate from other items of evidence.
5. Fenced-in, secure storage areas, either at the headquarters facility or at district or sub-district offices shall be constructed so that all items of evidence/property can be securely stored preventing access by anyone other than the evidence custodian or designee.

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Clarification added.

6. All storage facilities, including fenced, secure areas, shall be equipped with a sign-in/out log that must be signed by everyone upon entering and leaving the facility. Access shall be limited to the evidence custodian or designee and authorized DPS personnel.

### **G. Evidence Custodians**

1. Evidence custodians for the headquarters facility will be appointed by the Chief. NMSP, MTPD and SID commanders will assume the role of evidence custodians for their specific district and/or sub-district offices. District evidence custodians may appoint alternate custodians within their chain of command, as long as the alternate holds the rank of sergeant or above. Evidence custodians are the only authorized personnel allowed access to the area used by the agency for storage of in-custody evidence or property. The designations for evidence custodians and alternates for district personnel are as follows:
  - a. District Commander – Evidence custodian of corresponding district and all sub-district facilities.
  - b. Assistant District Commander – Alternate evidence custodian of corresponding district and all sub-district facilities.
  - c. Sub-District Commander – Alternate evidence custodian for the corresponding sub-district and other district and sub-district facilities as assigned by the district commander.
  - d. Sergeant – Alternate evidence custodian of district or sub-district evidence facilities as assigned by the district commander.
  - e. No evidence facility should have more than one (1) evidence custodian and three (3) alternate evidence custodians.

### **H. Evidence Vault Records**

1. Evidence custodians shall maintain a permanent record of every item of evidence and/or property stored in the evidence storage facility. This shall be accomplished by the use of a bound book, which can be supplemented by a computer program.
  - a. The bound book shall be arranged in the following manner:
    1. The first five (5) pages shall be a list of evidence custodians and alternates, with the beginning and ending dates of their appointments.

Name	Rank	Facility Location	Begin Date	End Date	Custodian/Alt
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2. The next five (5) pages shall be dedicated to a chronological listing of inventory dates and names of those performing the inventories.

Inventory Date	Facility Location	Custodian/Alternate	Discrepancies
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3. Evidence/property listings. This will be the actual listing of evidence/property items.

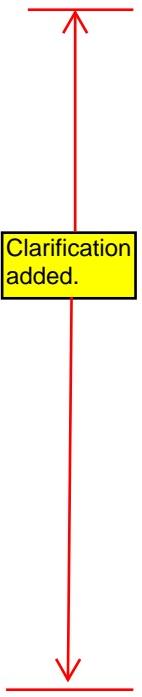
Date	Evid. No.	Officer Name/ID	Suspect/ Victim	No. of Pkgs.	Item No. & Description	Disposition & Date	Bin Location
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4. Evidence custodians may place additional information categories in the bound books, but must have at least the above-listed categories.

- a. When the permanent bound evidence/property book at each storage facility become filled, and all items in the book disposed of, the book will be permanently stored in the evidence storage/property facility in which the book was used.
- b. Entries and corrections in the bound book shall be in permanent ink; errors must not be obliterated. Simply draw one thin line through the error and enter the correct information in the next line above or below the error. If necessary, a footnote may be used. Under no circumstances will "white-out" be used in the book.

### I. Inventories, Audits, and Inspections

#### 1. Inventories

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- a. Evidence custodians must conduct an inventory of their respective vaults every January. The inventory will be documented on the Property/Evidence Inventory/Inspection Form.
  - b. Inventories will consist of a physical inspection of all evidence, **SP-205** Evidence/ Property Control forms, bound record book entries, and any other record keeping mechanism to determine adherence to procedures used for the control of evidence/property. Sealed packages with **item numbers** on the outside need not be opened for these inventories. An inventory report listing all evidence for each evidence facility under the control of each evidence custodian, at the time of the inventory, will be compiled and retained by the evidence custodian for auditing purposes. Any discrepancies found and any corrective action taken will be followed up during the semi-annual inspection.
  - c. Inventories will also be conducted when an evidence custodian first assumes responsibility over evidence facilities or when one relinquishes said responsibility. The inventory should be conducted jointly by the incoming and outgoing evidence custodian, when practical. If the outgoing evidence custodian is unavailable due to retirement, illness, etc., the inventory will be conducted jointly by the incoming evidence custodian and another commander/evidence custodian as assigned by the Chief. The inventory will be documented on the Property/Evidence Inventory/Inspection Form.
  - d. The Property/Evidence Inventory/Inspection Form must be submitted to the headquarters evidence custodian no later than ten days following any required inventory.

#### 2. Audits

- a. An annual audit of property and evidence held by the agency shall be conducted by the Standards Bureau.
  1. The Standards Bureau shall complete the Property/Evidence Audit Form and forward a copy to the Office of the Chief. The Audit should consist of a significant representative sampling to include high-risk items. No less than three (3) items will be reviewed for audit. Any discrepancies identified during the audit shall be documented on the form. These discrepancies shall be immediately brought to the attention of the respective district or sub-district commander for corrective action.
  2. Major discrepancies identified during the audit may be remedied by a complaint generated pursuant to department policy *ADM:04 Internal Investigations*.

### 3. Inspections

- a. The State Police Chief, or his/her designee, shall conduct annual documented, unannounced inspections of evidence/property storage facilities.
  1. A Property/Evidence Inspection Form shall be completed on the results of the inspection and be forwarded to the Office of the Chief. Any discrepancies identified during the inspection shall be documented in the form. These discrepancies shall be immediately brought to the attention of the respective district or sub-district commander for corrective action.
  2. Major discrepancies identified during the inspection may be remedied by a complaint generated pursuant to department policy *ADM:04 Internal Investigations*.
- b. A semi-annual inspection to determine adherence to procedures used for the control of property shall be conducted by the evidence custodian. These inspections shall be conducted in January and July unless documented authorization is obtained from the headquarters evidence custodian. *The January inspection can be conducted in conjunction with the annual inventory.* The Property/Evidence Inventory/Inspection Form must be submitted to the headquarters evidence custodian no later than ten days following the inspections.

### J. Numbering System

1. Evidence custodians may develop evidence tracking/numbering systems to suit the district's accounting needs. However, numbering systems must generate numbers sequentially. Evidence/property will be labeled in accordance with a sequential numbering system that includes an **evidence number** and an **item number**. If evidence is stored in a sealed container that is not transparent, the evidence number and item numbers must be permanently marked on the outside of the packaging. If a case number is used as an evidence number it must be permanently marked on the outside of the package.
2. All items of evidence pertaining to one case will use the same evidence number. It is not necessary to assign individual item numbers to several nearly identical items which are packaged together.

### K. Tracking and Disposition

1. Evidence custodians must also ensure that evidence/property within the storage facility is disposed of promptly and/or disposal proceedings initiated as soon as practical at the end of the department's need for the evidence/property.
  - a. Evidence released to the court should be documented on the **SP-205** Evidence/Property Control form by the officer/agent handling the case and recorded as released to the specific court by the judge ordering such release.
  - b. Evidence destroyed by court order shall be done in a lawful manner and within the time limit specified in the order. The evidence custodian or one of his/her alternates and one (1) non-evidence custodian witness must be present during destruction to verify the destruction unless otherwise instructed by court order. The evidence custodian is to ensure that individual evidence items being destroyed are the same specific items identified (by evidence number, item number and description) on the court order.

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2. Each evidence custodian or alternate shall prepare a list of stored evidence/property in the evidence facilities within their areas of responsibility at least every ninety (90) days. The list will be disseminated to agents/officers responsible for the seizure or collection of such evidence. The headquarters evidence custodian shall prepare such lists at least annually.
3. Agents/officers must review the evidence lists, obtain case disposition, and report the case status to the evidence custodian within thirty (30) days of agent/officer receiving the list.
4. Evidence/property items which are not contraband and no longer needed by the department shall be returned to the owner or the owner's agent. The owner's agent must possess a valid power of attorney from the owner or the owner's estate. If the owner cannot be contacted by telephone or registered mail, the evidence will be treated as abandoned or unclaimed property and disposed of according to law.
5. Evidence/property items may be returned in person, by registered mail, or by commercial carrier. A return receipt bearing the signature of the person receiving the evidence/property shall be required when using the US Postal Service or commercial carrier.
6. A receipt and release form shall be required when returning evidence/property in person. When evidence/property is returned in person, the returning official shall make a reasonable attempt to notarize the signatures of the returning and receiving persons. In the event a notary public is unavailable, the returning official must obtain a second departmental employee to witness the return of the evidence/property. This second departmental employee must acknowledge witnessing the return of the evidence/property by signing the receipt and release form.
7. If the evidence is contraband, an order for destruction of that evidence shall be obtained from the appropriate court.
8. If controlled substances or contraband are to be forfeited to the department for use in conducting reverse-role undercover investigations, a court order allowing continued departmental custody of the contraband must be obtained.
9. Pursuant to Section 29-1-14, NMSA 1978, the following misdemeanor evidence/abandoned property may be destroyed without a court order;
  - a. Evidence/property valued at less than fifty dollars (\$50.00); excluding weapons, firearms, and contraband, and that which is unclaimed by the owner, and
  - b. Evidence/property not needed for criminal or civil cases involving the department.
10. Any evidence/property which was seized prior to July 1, 2007 for which there is no Offense Incident report associated with it the original **SP-205** Evidence/Property Control forms, with attached (complete) copies of a court-ordered destruction document or Release of Evidence/Property form, shall be maintained at the location where the evidence/property was stored for three years from the date of the final disposition of the case.

Any evidence/property which was seized after July 1, 2007 for which there is a required Offense Incident report, a supplemental report as well as a copy of the original **SP-205** Evidence/Property Control form and court or release documentation shall be forwarded to the Law Enforcement Records Bureau. A copy of the supplemental report with attachments shall be maintained for a period of one year

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and then destroyed appropriately. The supplemental report shall describe the following, at a minimum:

- a. The date/time and location of destruction/release of evidence/property.
  - b. The names of any and all witnesses present during the destruction/release of the evidence/property.
  - c. The name(s) of the person(s) receiving the evidence/property when released.
11. Evidence/property stored for a particular officer/agent must stay with the officer/agent at transfer or reassignment.
- a. Upon transfer of an officer, the evidence custodian shall generate an Intra-Departmental Correspondence to the commander of the district/section where the officer is transferred detailing those items of evidence being transferred with the officer. It is the officer's responsibility to ensure timely submission of the correspondence and storage of evidence upon arrival at his/her new assignment.
  - b. The evidence custodian receiving the evidence shall cross-reference the items on the correspondence with the actual evidence being submitted to ensure all items are accounted for.
  - c. Evidence/property previously stored for a former Department employee must be reassigned to a supervisor or their designee, in the district where the item was originally seized.
12. If long-term storage of evidence is needed, e.g. homicide case, the evidence custodian shall make storage arrangements with the headquarters evidence custodian and shall request a letter from the appropriate district attorneys office requesting the long-term storage, including a date for disposal. A supplemental report shall be completed describing the change in custody as well as any information regarding the long-term storage and disposal date. A copy of this report shall be attached to the evidence.
13. Procedure for temporarily releasing evidence/property from a Department evidence vault:
- a. Requesting employee must make arrangements with the appropriate evidence custodian.
  - b. The evidence custodian obtains the item(s) of evidence/property from the vault and transfers possession to the requesting employee.
  - c. The evidence custodian documents the transfer of custody by completing the *Received From* portion of the Chain of Custody on the **SP-205** Evidence/Property Control form. The receiving employee documents receipt of the item of evidence/property by completing the *Received By* portion of the Chain of Custody on the **SP-205** Evidence/Property Control form. The evidence custodian also documents the reason for the evidence/property being temporarily released in the *Purpose for Change of Custody* section of the **SP-205** Evidence/Property Control form. Example: *Out for Court*.
  - d. The evidence custodian shall also document the temporary release of the evidence/property in the bound book or database.
  - e. When the item of evidence/property is returned for storage, this procedure is reversed.

### L. Property Acquired Through the Civil Process

Property acquired through the civil process shall be accounted for in the agency pursuant to the following procedures:

1. Vehicles
  - a. Vehicles forfeited by a federal agency and turned over to the DPS shall be documented on Departmental inventory logs. These vehicles shall be assigned a Department inventory number and entered into the fleet database. When the vehicle is assigned to a Department employee, a notation shall be made in the *Assignment History* section of the fleet database. The Department **SP-52** Vehicle Assignment form shall be completed at the time the vehicle is issued. The **SP-52** Vehicle Assignment form shall be maintained in a file in the Special Operations Bureau.
  - b. Vehicles forfeited pursuant to the altered VIN state law shall be entered into the Department inventory following the same procedure as outlined above. When the vehicle is removed from Departmental service, the vehicle must be disposed of according to state law. Documentation of this process shall be maintained in the Special Operations Bureau.
2. Firearms
  - a. Firearms may be acquired by the Department or destroyed pursuant to state law.
  - b. A court order for destruction shall be obtained by the DPS Office of Legal Affairs (OLA) or appropriate District Attorney's (DA) office. OLA or DA's office personnel will provide the court order to the Department evidence custodian.
  - c. Firearms shall be destroyed pursuant to the section of this policy regarding destruction of evidence/property.
  - d. In the event the firearm is released for Department use, the evidence custodian shall transfer the firearm(s) to the Department armorer. The evidence custodian shall document the transfer of the firearm(s) on a **SP-205** Evidence/Property Control form. The **SP-205** Evidence/Property Control form and a copy of the court order shall be maintained in a file by the evidence custodian.
  - e. The armorer or his/her designee shall document and maintain the make, model and serial numbers of each firearm in a Department database.
  - f. In the event a firearm is needed for training or another Department purpose, it may be removed from storage and assigned to a Department employee on the Department **SP-6** Supply Control form. When the firearm is returned, the **SP-6** shall indicate it has been returned to storage. The completed **SP-6** Supply Control form shall be maintained in a file by the armorer. The armorer shall update the database, as necessary, documenting the change(s) in status.

### M. Forms

The following forms are the only forms department enforcement personnel are to use (excluding court orders or affidavits) when taking custody of or returning evidence or property:

1. **SP-205** Evidence/Property Control form or the Uniform Evidence/Property Control form (*Attachment A*) for use by all DPS commissioned personnel.

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2. Receipt and Release Form. Use this form (*Attachment B*) when releasing property or evidence to owners or their agents. When property is being released after-hours and a notary is not available, two (2) department witnesses can sign the Receipt and Release Form in lieu of a notary.
3. Crime Laboratory Evidence Receipt. Use this form (*Attachment C*) for movement (submission or retrieval) of evidence through the forensic laboratories.

### **7.0 ATTACHMENTS:**

- A. NMDPS Receipt for Property or Evidence  
(SP-205 Evidence/Property Control Form)**
- B. NMDPS Receipt and Release Form**
- C. NMDPS Crime Laboratory Evidence Receipt**
- D. Property/Evidence Inventory/Inspection Form**
- E. Property/Evidence Audit Form**

### **8.0 APPROVAL**

APPROVED BY: s/Gorden E. Eden Jr.  
DPS Cabinet Secretary

DATE: March 3, 2011